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KATTEN MUCHIN ROSENMAN LLP 575 MADISON AVENUE NEW YORK, NY 10022-2585				LEE, Y YOUNG
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RECORD OF ORAL HEARING

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte AKIHIRO YAMORI, TAKASHI, HAMANO,
KIYOSHI SAKAI, and KOUJI YAMADA

Appeal 2007-3109
Application 09/526,619
Technology Center 2600

Oral Hearing Held: January 22, 2008

Before KENNETH W. HAIRSTON, SCOTT R. BOALICK, and JOHN A. JEFFERY, Administrative Patent Judges

ON BEHALF OF THE APPELLANTS:

DEXTER T. CHANG, ESQUIRE
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33 The above-entitled matter came on for hearing on Tuesday, January
34 22, 2008, commencing at 9:20 a.m., at the U.S. Patent and Trademark
35 Office, 600 Dulany Street, 9th Floor, Alexandria, Virginia, before Dawn A.
36 Brown, Notary Public.

1 THE USHER: Calendar Number 30, Appeal Number 2007-3109, Mr.
2 Chang.

3 JUDGE HAIRSTON: How are you today?

4 MR. CHANG: Good morning.

5 May I begin?

6 JUDGE HAIRSTON: Please.

7 MR. CHANG: The reason I requested the hearing and the reason we
8 appealed this case is that there is a real fundamental disagreement between
9 ourselves and the examiner on how the claim as it now stands is interpreted
10 and how -- whether it reads on the Lim reference of the 223 patent.

11 What we had done during prosecution is we had amended the claims
12 to explicitly narrow the scope of the claims where we had predictions for the
13 top field of the picture frame taken from only the forward picture frame and
14 the field taken from only the backward picture frame. And we explicitly
15 recite that particular picture is generated according to that prediction.

16 The examiner disagrees from our exception by stating that the 223
17 patent, the Lim reference, specifically, Figures 9B and 10C --

18 JUDGE HAIRSTON: Of Lim?

19 MR. CHANG: -- isolated out from the rest of the disclosure to meet
20 the claim language.

21 But we disagree with that because if you look at figure 6 of Lim,
22 where you have the apparatus for the motion prediction, and if you read it in
23 the context of MPEG-2, which is what the apparatus is directed to, for B
24 pictures, you would have forward prediction done in one phase and
25 backward prediction done in another phase.

26 What figures 9B, 9C, 10B and 10C are directed to are respective

1 forward and backwards predictions for the top and bottom fields. So if we
2 read Lim in context, what would happen is that the apparatus for forward
3 prediction would have pixel for the B picture.

4 JUDGE JEFFERY: Let me stop you there, Counsel. I understand the
5 argument.

6 The pivotal issue here seems to me is the examiner is taking one
7 subfigure from each of these schemes, say Figure 9C the examiner is relying
8 upon, and saying Figure 9C fully meets one of these predictions. And then
9 he is taking Figure 10B in isolation and saying that figure – the prediction
10 shown in that figure fully meets another one of the predictions.

11 And it appears to me from the briefs that the Appellant isn't disputing
12 that if you consider these figures in isolation, that it read that they meet those
13 limitations. But as I understand your position, that you have to consider
14 both of these figures together, that you must do both of these operations both
15 in the forward direction and in the backward direction. Is that a fair
16 statement?

17 MR. CHANG: What we're trying to say is that if you look at 9C, then
18 in the same operation that you have, then it would require the operation to
19 include 10C.

20 JUDGE JEFFERY: Yes.

21 MR. CHANG: Nowhere in Lim does it describe you have 9C and
22 10B in isolation, but together.

23 JUDGE JEFFERY: Not only that, as I understand your position,
24 you're saying the examiner's interpretation isn't even enabling because you
25 simply can't consider these things in isolation.

26 MR. CHANG: Right.

1 JUDGE JEFFERY: Just so I understand here, from the reference
2 itself, you say when you consider this scheme in connection with an MPEG
3 encoding scheme, is that where you're coming up with the requirement that
4 you have to go in both directions?

5 I guess that is -- the key to the case here is, do you have to go in both
6 directions or can you only go in one direction? Because if you can only go
7 in one direction, the claim is met.

8 MR. CHANG: If you can go in one direction, what our position is, if
9 you can go in only one direction, then both fields would be going in only
10 that direction. In other words, the top and bottom fields would both have to
11 be either both forward prediction or both backward prediction. There isn't a
12 case where the top field is forward and the bottom is backward.

13 It is explicitly shown in the figures themselves. If you look at Figures
14 9B and 9C, you look at each of the vertical lines, top and bottom fields, and
15 the first two vertical lines is the previous picture for either an I or P picture.
16 And the middle broken lines, the four broken lines in the middle, are the B
17 pictures.

18 So if you look at 9B, it talks about the top field and 9C talks about the
19 top field as well and the way that the Figure 6 is operated is you would have
20 for B pictures -- in constructing the B picture, you would have to split up
21 forward prediction and backward prediction.

22 So you would do the forward prediction, top and bottom, at the same
23 time; backward prediction, top and bottom at the same time. And then you
24 combine the two.

25 So the most reasonable interpretation of one direction only is where
26 you would have 9B and 10B together where you have the top field and the

1 bottom field both done in forward prediction and then separately you would
2 have top and bottom doing backward prediction.

3 JUDGE JEFFERY: You're saying that is done one direction at a time
4 in effect. You need to do both of them in order to do this prediction at all.
5 You can't just isolate one direction.

6 MR. CHANG: Right. So it is actually a two-level argument. In
7 general and the overall B picture, you would require all four. So you would
8 require top field backward and forward, bottom field backward and forward.
9 We were just trying to go one step below that.

10 If you split out the actual construction of the B picture, you would
11 have backward done all together and forward done all together and then
12 combine the two.

13 There isn't a case where you take out one part and take out the other
14 part. In this instance, it would be taking out the backward for the top field
15 and forward on the bottom field. There is no case in the reference itself that
16 talks about that at all.

17 And, for the hearing, I think that is what we would just like to point
18 out to you. On the 103 rejection, we do concede that we would not like to
19 pursue that argument. I think the main basis for our distinction is the 102
20 rejection and --

21 JUDGE HAIRSTON: Is that it?

22 MR. CHANG: Yes.

23 JUDGE HAIRSTON: Any further questions?

24 Thank you.

25 MR. CHANG: Thank you.

26 (Whereupon, the proceedings at 9:29 a.m. were concluded.)